

APPENDIX D

**PLAN OF THE
UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF GEORGIA
PURSUANT TO
THE CRIMINAL JUSTICE ACT OF 1964, AS AMENDED**

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
CRIMINAL JUSTICE ACT PLAN**

I. AUTHORITY

Pursuant to the Criminal Justice Act (CJA) of 1964, as amended, 18 U.S.C. § 3006A, and the Guidelines for the Administration of the Criminal Justice Act, Volume VII, Guide to Judiciary Policies and Procedures (CJA Guidelines), the judges of the United States District Court for the Northern District of Georgia adopt this Plan for furnishing representation in federal court for any person financially unable to obtain adequate representation in accordance with the CJA.

II. STATEMENT OF POLICY

A. Objectives.

1. The objective of this Plan is to attain the ideal of equality before the law for all persons. Therefore, this Plan shall be administered so that those accused of crimes, or otherwise eligible for services pursuant to the CJA, will not be deprived, because they are financially unable to pay for adequate representation, of any element of representation necessary to an adequate defense.

2. The further objective of this Plan is to particularize the requirements of the CJA, the Anti-Drug Abuse Act of 1988 (21 U.S.C. § 848(q)), and the CJA Guidelines in a way that meets the needs of this district.

B. Compliance.

1. The Court, its Clerk, the Federal Defender Program, Inc., and private attorneys appointed under the CJA shall comply with the CJA Guidelines approved by the Judicial Conference of the United States and/or its Committee on Defender Services and with this Plan.

2. Each private attorney shall be provided by the chief magistrate judge with a current copy of this Plan upon the attorney's first appointment under the CJA or designation as a member of the Panel of Private Attorneys under the Criminal Justice Act (CJA Panel). The chief magistrate judge shall maintain a current copy of the CJA Guidelines for the use of members of the CJA Panel and shall make known to such attorneys its availability.

III. DEFINITIONS.

A. "Representation" includes counsel and investigative, expert, and other services.

B. "Appointed attorney" includes private attorneys, the Federal Defender and staff attorneys of the Federal Defender Program, Inc.

IV. PROVISION OF REPRESENTATION.

A. Circumstance.

1. Mandatory. Representation shall be provided for any financially eligible person who:

- a. is charged with a felony or with a Class A misdemeanor;
- b. is a juvenile alleged to have committed an act of juvenile delinquency defined in 18 U.S.C. § 5031;
- c. is charged with a violation of probation or faces a change of a term or condition of probation (unless the modification sought is favorable to the probationer and the government has not objected to the proposed change);
- d. is under arrest, when such representation is required by law;
- e. is charged with a violation of supervised release or faces modification, reduction, or enlargement of a condition, or extension or revocation of a term of supervised release;
- f. is subject to a mental condition hearing under chapter 313 of Title 18, United States Code;
- g. is in custody as a material witness;

h. is seeking to set aside or vacate a death sentence under 28 U.S.C. § 2254 or § 2255;

i. is entitled to appointment of counsel in verification of consent proceedings pursuant to a transfer of an offender to or from the United States for the execution of a penal sentence under 18 U.S.C. § 4109;

j. is entitled to appointment of counsel under the Sixth Amendment to the Constitution; or

k. faces loss of liberty in a case and federal law requires the appointment of counsel.

2. Discretionary. Whenever a district or magistrate judge determines that the interests of justice so require, representation may be provided for any financially eligible person who:

a. is charged with a petty offense (Class B or C misdemeanor, or an infraction) for which a sentence to confinement is authorized;

b. is seeking relief under 28 U.S.C. § 2241, § 2254, or § 2255, other than to set aside or vacate a death sentence, for which representation is mandatory;

c. is charged with civil or criminal contempt and faces loss of liberty;

d. has been called as a witness before a grand jury, a court, the Congress, or a federal agency or commission which has the power to compel testimony, and there is reason to believe, either prior to or during testimony, that the witness could be subject to a criminal prosecution, a civil or criminal contempt proceeding, or face loss of liberty;

e. is proposed by the United States attorney for processing under a pretrial diversion program;

f. is held for international extradition under Chapter 209 of Title 18, United States Code; or

g. has received a letter indicating that he/she is a “target” of a federal criminal investigation, as that term is defined in the United States Attorneys’ Manual.

Representation may also be furnished for financially eligible persons in ancillary matters appropriate to the proceedings pursuant to subsection (c) of the CJA.

B. When Counsel Shall Be Provided.

Counsel shall be provided to eligible persons as soon as feasible after they are taken into custody, when they first appear before a magistrate judge in this district, or when a district or magistrate judge in this district otherwise determines that appointment of counsel is appropriate under the CJA, whichever occurs earliest.

1. Appointments of counsel may be made by a district judge or a magistrate judge. Appointments will usually be made by the magistrate judge in this district before whom an eligible defendant first appears. In a capital prosecution or in capital habeas corpus proceedings, the appointment of counsel shall be made by the district judge assigned to the case or the chief district judge if the case has not been assigned.

2. In a potential capital prosecution in which the Department of Justice's decision whether to seek the death penalty precedes defendant's first court appearance, counsel will be appointed early so the defendant will have representation in proceedings under DOJ's internal procedures pertaining to its determination of whether to seek the death penalty.

C. Number and Qualification of Counsel.

1. Number. More than one attorney may be appointed in any case determined by the court to be extremely difficult. In a capital case, the following applies:

a. Federal Capital Prosecution. Pursuant to 18 U.S.C. § 3005, an eligible person charged with a federal capital offense is entitled to the appointment of two attorneys, at least one of whom shall be learned in the law applicable to capital cases. Pursuant to 21 U.S.C. § 848(q)(4), if necessary for adequate representation, more than two attorneys may be appointed to represent a defendant in such a case. While the court's preference is to appoint at least one private attorney among the defense team, two or more staff attorneys of the Federal Defender Program who are experienced in handling death penalty cases may satisfy this requirement.

b. Habeas Corpus Proceedings. Pursuant to 21 U.S.C. § 848(q)(4), a financially eligible person seeking to vacate or set aside a death sentence in proceedings under 28 U.S.C. § 2254 or § 2255 is entitled to appointment of one or more qualified attorneys. Due to the complex, demanding, and protracted nature of death penalty proceedings, judicial officers should consider appointing at least two counsel who may both be staff attorneys of FDP, who are experienced in handling death penalty cases.

2. Qualifications. Qualifications for appointed counsel in noncapital cases shall be as set forth in Appendix I hereto. In capital cases, the following minimum qualifications shall also be required:

a. Appointment of Counsel Prior to Judgment. Pursuant to 21 U.S.C. § 848(q)(5) and the additional requirements of this district, at least one of the attorneys appointed must:

- i. have been admitted to practice in this district for not less than seven (7) years;
- ii. have had not less than three years experience in the trial of felony prosecutions in this district;
- iii. be a member in good standing of the State Bar of Georgia; and
- iv. have had experience in handling a minimum of two (2) capital cases, at least one of which was tried to a jury.

Pursuant to 18 U.S.C. § 3005, in appointing counsel in federal capital prosecutions, the court shall consider the recommendation of the Federal Defender Program.

b. Appointment of Counsel After Judgment. Pursuant to 21 U.S.C. § 848(q)(6), at least one of the attorneys appointed must:

- i. have been admitted to practice in the United States Court of Appeals for the Eleventh Circuit for not less than five (5) years; and
- ii. have had not less than three years experience in handling of appeals of felony cases in that court.

c. Appointment of Counsel in Capital Habeas Corpus Proceedings. An attorney appointed to represent a financially eligible person

seeking to vacate or set aside a death sentence in proceedings under 28 U.S.C. § 2254 or § 2255 must:

- i. have been admitted to practice law for a minimum of five (5) years;
- ii. be a member in good standing of the State Bar of Georgia; and
- iii. have significant trial or appellate experience or have been a member of the faculty of an accredited law school.

d. Attorney Qualification Waiver. The presiding judicial officer, for good cause, may appoint an attorney who may not qualify under these standards, but who has the background, knowledge, and experience necessary to properly represent the defendant in a capital case, giving due consideration to the seriousness of the possible penalty and the unique and complex nature of the litigation.

D. Eligibility for Representation.

1. Factfinding. The determination of eligibility for representation under the CJA is a judicial function to be performed by a district or magistrate judge after making appropriate inquiries concerning the person's financial condition.

2. Disclosure of Change in Eligibility. If, at any time after appointment, counsel obtains information that a client is financially able to make payment, in whole or in part, for legal or other services in connection with his or her representation, and the source of the attorney's information is not protected as a privileged communication, counsel shall immediately advise the court.

3. Redetermination of Need. A party initially found eligible or ineligible for appointed counsel may, on motion or sua sponte by the Court, have his eligibility redetermined by the Court if circumstances change.

V. FEDERAL DEFENDER PROGRAM

A. Establishment. The Northern District of Georgia Federal Defender Program, Inc. ("Federal Defender Program"), previously established in this district pursuant to the provisions of the CJA, is hereby recognized as a Community Defender Organization for this district as defined in 18 U.S.C. § 3006A(g)(2)(B). Pursuant to that section, the Federal Defender Program bylaws are attached at Appendix II. The Federal Defender Program shall be capable of providing legal services throughout the district and shall maintain an office in Atlanta, Georgia.

B. Supervision of Federal Defender Program. The Executive Director of the Federal Defender Program shall have the general responsibility of carrying out the purposes and business of the Federal Defender Program. While a staff attorney from the Federal Defender Program may be given an initial appointment, the Executive Director or his or her designee may reassign cases to other staff attorneys within the Federal Defender Program at his or her discretion; provided, however, that in capital prosecutions and capital habeas proceedings, the assignment is subject to the approval of the district assigned to the case.

C. Federal Defender Program Staff Attorneys. The Federal Defender Program shall furnish to the court a list of the attorneys on its staff who will be subject to appointment as counsel for defendants under this Plan, including a certificate that such attorneys are competent to give adequate representation to parties under the Criminal Justice Act and this Plan. This Court may from time to time make such inquiries and request such information as may be needed to ensure that eligible defendants receive effective and competent representation. Any change in this list of attorneys must be reported promptly to the court by way of a revised listing, similarly certified.

VI. PRIVATE ATTORNEYS

A. Establishment of CJA Panel. The existing, previously established panel of attorneys (CJA Panel) who are eligible and willing to be appointed to provide representation under the CJA is hereby recognized.

B. Organization. The Plan for the Composition, Administration, and Management of the Panel of Private Attorneys under the Criminal Justice Act is found at Appendix I of this CJA Plan.

C. Ratio of Appointments. To the extent possible, and where practical and cost effective, this court shall appoint private attorneys from the CJA Panel in a substantial proportion of the cases in which the accused is determined to be financially eligible for representation under the CJA. "Substantial" shall usually be defined as approximately 25% of the appointments under the CJA annually throughout the district.

VII. DUTIES OF APPOINTED COUNSEL

A. Standards. The services to be rendered a person represented by appointed counsel shall be commensurate with those rendered if counsel were privately employed by the person.

B. Professional Conduct. Attorneys appointed pursuant to the CJA shall conform to the highest standards of professional conduct, including but not limited to the provisions of the American Bar Association's Model Rules of Professional Conduct, the American Bar Association's Model Code of Professional Conduct, and the State Bar of Georgia's Rules of Professional Conduct.

C. No Receipt of Other Payment. Appointed counsel may not require, request, or accept any payment or promise of payment or any other valuable consideration for representation under the appointment, unless such payment is approved by order of the court.

D. Continuing Representation. Once counsel is appointed under the CJA, counsel shall continue the representation until the matter, including appeals or review by certiorari (as governed by the circuit CJA plan provisions concerning representation on appeal), is closed; until substitute counsel has filed a notice of appearance; until an order has been entered allowing or requiring the person represented to proceed pro se; or until the appointment is terminated by court order.

VIII. DUTIES OF COURT OFFICERS AND RELATED AGENCIES

A. Presentation of Accused for Appointment of Counsel.

1. If it becomes known to any judge, magistrate judge, assistant United States attorney, deputy United States marshal, probation officer or pretrial service officer, or any person acting on their behalf, that a person who is in custody, or who otherwise may be entitled to counsel under Section IV.A.1 of this plan, desires representation by an attorney, but may not be financially able to afford such service, the individual receiving such notice shall promptly notify the Federal Defender Program. An attorney with the Federal Defender Program shall discuss with the person the right to representation and right to appointed counsel. If the appointment of counsel seems likely, the Federal Defender Program attorney or the pretrial service officer shall assist in the completion of a financial affidavit (CJA Form 23) and arrange to have the person promptly presented before a magistrate judge of this court for determination of financial eligibility and appointment of counsel.

2. If it becomes known to any judge, magistrate judge, assistant United States attorney, deputy United States marshal, probation officer or pretrial service officer, or any person acting on their behalf, that a person who may be subject to having counsel appointed under Section IV.A.2 of this plan, desires representation by an attorney, but may not be financially able to afford such service the individual receiving such notice shall promptly notify the duty magistrate judge.

B. Pre-trial Services Interview. Before conducting the interview, the pretrial services officer shall give the defendant the *Notice to Defendant* form (PS1) and explain its contents. The officer shall specifically explain to the defendant that the defendant has the right to speak with an attorney before answering any questions and that if he or she is unable to afford an attorney, an attorney will be appointed.

IX. MISCELLANEOUS

A. Forms. Standard forms, pertaining to the CJA and approved by the Judicial Conference of the United States or its Committee on Defender Services and prescribed and distributed by the Director of the Administrative Office of the

United States Courts, shall be used, where applicable, in all proceedings under this Plan.

B. Claims. Claims for compensation of private attorneys providing representation under the CJA shall be submitted on the appropriate CJA form, to the office of the clerk of the court. That office shall review the claim form for mathematical and technical accuracy and for conformity with the CJA Guidelines, and, if correct, shall forward the claim form for the consideration of the appropriate district or magistrate judge. The court will exert its best effort to avoid delays in reviewing payment vouchers and in submitting them for further processing.

C. Supersession. This Plan supersedes all prior Criminal Justice Act Plans of this court.

X. EFFECTIVE DATE.

This Plan, as amended, is effective January 3, 2005 and upon approval of the Judges of the District Court and the Judicial Council of the United States Court of Appeals for the Eleventh Circuit.

APPENDICES:

I. Plan for the Composition, Administration, Management and Compensation of the Panel of Private Attorneys under the Criminal Justice Act.

II. Bylaws of the Federal Defender Program, Inc.

Adopted this 28th day of January, 2004.

Orinda D. Evans
CHIEF UNITED STATES DISTRICT JUDGE

APPROVED BY THE JUDICIAL COUNCIL OF THE ELEVENTH
CIRCUIT ON JANUARY 3, 2005.

CHIEF JUDGE
UNITED STATES COURT OF APPEALS
ELEVENTH CIRCUIT

APPENDIX I

I. COMPOSITION OF PANEL OF PRIVATE ATTORNEYS

A. CJA PANEL

1. Approval. The Court shall establish a panel of private attorneys (hereinafter referred to as the "CJA Panel") who are eligible and willing to be appointed to provide representation under the Criminal Justice Act. The Court shall approve attorneys for membership on the CJA Panel after receiving recommendations from the "Panel Selection Committee," established pursuant to paragraph B. of this Plan. Members of the CJA Panel shall serve at the pleasure of the Court.

2. Size. The Court shall fix, periodically, the size of the CJA Panel. The panel shall be large enough to provide a sufficient number of experienced attorneys to handle the CJA caseload, yet small enough so that panel members will receive an adequate number of appointments to maintain their proficiency in federal criminal defense work, and thereby provide a high quality of representation.

3. Eligibility

a. Attorneys who serve on the CJA Panel must be members in good standing of this court, and have demonstrated experience in, and knowledge of, the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, the Sentencing Guidelines, the Criminal Justice Act and the Guidelines for the Administration of the CJA (Vol. VII, Guide to Judiciary Policies and Procedures).

b. All CJA Panel attorneys must meet all requirements by the State Bar of Georgia for continuing legal education.

4. Admission of Pro Hac Vice Attorney. In exceptional circumstances, if the district or magistrate judge presiding over the case determines that the appointment of an attorney, who is not a member of the CJA Panel, is in the interest of justice, judicial economy or continuity of representation, or there is some other compelling circumstance warranting his or her appointment, the attorney may be admitted to the CJA Panel pro hac vice and appointed to represent the defendant. The attorney, who

may or may not maintain an office in this district, must possess such qualities as would qualify him or her for admission to the CJA Panel as set forth in this Plan.

5. Application. Application forms for membership on the CJA Panel shall be made available, upon request, by the chief magistrate judge. Completed applications shall be submitted to the chief magistrate judge who will transmit the applications to the Chairperson of the Panel Selection Committee.

6. Equal Opportunity. All qualified attorneys shall be encouraged to participate in the furnishing of representation in CJA cases, without regard to race, color, religion, sex, age, national origin or disabling condition.

B. PANEL SELECTION COMMITTEE

1. Membership. A Panel Selection Committee shall be established by the Court. The Panel Selection Committee shall consist of a district and a magistrate judge both appointed by the chief district judge in this district, the Executive Director of the Federal Defender Program, and a member of the criminal defense bar of this district in good standing appointed by a majority vote of the remaining committee members.

2. Duties. The district member of the Committee shall serve as chairperson and will be responsible for scheduling meetings of the Committee at least once a year and shall be responsible for conducting the business meetings of the Committee. The Panel Selection Committee shall be responsible for developing and maintaining a panel of attorneys available for appointment to cases in this district, with separate panels for death penalty cases and capital habeas corpus proceedings. An attorney may qualify for inclusion on any one or all panels. The Committee shall also review the operation and administration of the panel and recommend to the Court any changes deemed necessary or appropriate by the Committee regarding the appointment process and panel management.

3. Applicant Consideration. An application questionnaire approved by the court shall be used by the Committee for screening panel members. Completed applications shall be submitted to the chief magistrate judge who will refer these applications to the members of the Panel Selection Committee. At its meetings, the Committee shall review the existing panel membership, applications for membership,

and shall make additions or deletions to the panel membership as may be appropriate. The Committee will condition panel membership upon a continued demonstration of proficiency, ability, and interest in representation of the legally indigent. In determining the membership of the panel, the Committee shall also consider comments and recommendations of the districts and magistrate judges of this court.

4. Training Panel. The Panel Selection Committee may establish a “CJA Training Panel,” consisting of attorneys who do not have the experience required for membership on the CJA Panel. Training Panel members may be assigned, by the Court, to assist members of the CJA Panel or attorneys in the Federal Defender Program in a "second chair" capacity. Training Panel members shall not be eligible to receive appointments independently, and will not receive compensation for their services in assisting the Federal Defender Program or CJA Panel members. Prior service on the CJA Training Panel is not a requirement for membership on the CJA Panel. Service on the Training Panel will assist, but will not guarantee, admission of an attorney to the CJA Panel.

5. Notification of amendments to CJA Panel. After each meeting of the Panel Selection Committee, or at any time after the membership of the CJA Panel or Training Panel has been amended, the Committee shall distribute a copy or amended copy of the panel of attorneys to each district and magistrate judge of this district. A copy of this list shall also be made available to the Federal Defender Program the U. S. Attorney's Office, U. S. Probation, U. S. Pretrial Services, and the U. S. Marshals Service. A copy of the current list of the panel of attorneys shall be kept on file with the Clerk of Court.

II. SELECTION FOR APPOINTMENT

A. MAINTENANCE OF LIST OF DISTRIBUTION OF APPOINTMENTS

The chief magistrate judge and the Federal Defender Program shall maintain a current list of all attorneys included on the CJA Panel, with current office addresses, e-mail addresses, telephone numbers and fax numbers, as well as a statement of qualifications and experience. The Clerk of Court shall furnish a copy of this list to each district and magistrate judge.

B. METHOD OF SELECTION

Appointments from the list of panel attorneys shall be at the Court's discretion taking into consideration work load and availability, the nature and complexity of the case, an attorney's experience, geographical considerations, and the promptness of the attorney's response to the Court's inquiry regarding availability. The Court should seek a balanced distribution of appointments and compensation among the members of the CJA Panel, and quality representation for each CJA defendant.

III. COMPENSATION - FILING OF VOUCHERS

Claims for compensation shall be submitted, on the appropriate CJA form, to the office of the Clerk of Court. The Clerk of Court shall review the claim form for mathematical and technical accuracy, and for conformity with the Guidelines for the Administration of the Criminal Justice Act (Volume VII, Guide to Judiciary Policies and Procedures) and, if correct, shall forward the claim form for the consideration and action of the magistrate judge assigned to the case who, after review and recommendation will forward the claim to the district assigned to the case.

APPENDIX II

BYLAWS OF FEDERAL DEFENDER PROGRAM, INC.

ARTICLE I

Purpose

The purpose of Federal Defender Program, Inc. is generally summarized as follows:

To act as the Community Defender Organization of the Northern District of Georgia, as provided for in 18 U.S.C.A. Section 3006A(2)(B), and to administer the Criminal Justice Act in and for said court and the court's Plan implementing said Act in the Northern District of Georgia as the same may be amended from time to time. In administering said Plan the corporation shall in its capacity as a community nonprofit defender organization be specifically responsible for furnishing attorneys and rendering services to persons entitled to representation and services under the Criminal Justice Act, as amended, and to receive payments under said Act.

Commensurate with the above responsibilities the corporation shall likewise administer a trial oriented clinical education program for selected law school students intended to interest and train future attorneys in the practice of criminal law thereby assuring continued availability of trial oriented criminal practitioners to represent the legally indigent. Funds other than those granted under the Criminal Justice Act will be used to support this program.

The corporation also has such powers as are now or may hereinafter be granted by the Georgia Nonprofit Corporation Code of the State of Georgia.

ARTICLE II

Offices

The corporation shall have and continuously maintain in this state a registered office and a registered agent whose office is identical with such registered office, and may have other offices within or without the State of Georgia as the Board of Directors may from time to time determine.

ARTICLE III

Board of Directors

SECTION 1. GENERAL POWERS. The Board of Directors shall have the responsibility to manage and direct the property, affairs, and business of the corporation, including the furnishing of counsel in criminal cases as provided for in the court's Plan and the training of law students.

SECTION 2. NUMBER, TENURE AND QUALIFICATIONS. The number of Directors shall be a maximum of twenty and a minimum of ten persons. The president, vice president, secretary and treasurer of the corporation shall serve as ex-officio members of the Board of Directors. All terms of membership shall be as indicated by order of the Judges of the United States District Court for the Northern District of Georgia.

SECTION 3. ELECTION OF DIRECTORS. The initial Board of Directors and its Chairman are to be selected by the unanimous vote of all the judges of the United States District Court for the Northern District of Georgia. Thereafter members of the Board of Directors will be elected by a majority vote of all the judges of the United States District Court for the Northern District of Georgia.

SECTION 4. VOTING RIGHTS. Each Director shall be entitled to one vote on each matter submitted to a vote of the Directors.

SECTION 5. RESIGNATION. Any Director may resign by filing a written resignation with the Secretary.

ARTICLE IV

Meetings of the Board of Directors

SECTION 1. ANNUAL MEETING. An annual meeting of the Board of Directors shall be held on the first Thursday in October (or subject to appropriate notice, at any, alternate approximate date), for the purpose of installing officers and for the transaction of such other business as may come before the meeting. If such day be a legal holiday, the meeting shall be held at the same hour on the next succeeding business day.

SECTION 2. QUARTERLY AND SPECIAL MEETINGS. Quarterly Meetings of the Board of Directors shall be held on the first Thursday in January,

April, July and October and Special Meetings may be called at any time either by the president or by not less than one-tenth of the Directors having voting rights.

SECTION 3. PLACE OF MEETING. The Board of Directors may designate any place, either within or without the State of Georgia, as the place of meeting for an annual meeting, quarterly meeting or any special meeting called by the Board of Directors. If no designation is made, the place of meeting shall be the offices of the Corporation, provided, however, that if all of the members shall meet at any time and place, either within or without the State of Georgia, and. consent to the holding of a meeting, such meeting shall be valid without call or notice, and at such meeting any corporate action may be taken.

SECTION 4. NOTICE OF MEETINGS. Written or printed notice stating the place, day and hour of any meeting of Directors shall be delivered, either personally or by mail, to each Director entitled to vote at such meeting, not less than five nor more than forty days before the day of such meeting, by or at the direction of the president, or the secretary, or the officers or persons calling the meeting. In case of a special meeting or when required by statute or by these bylaws, the purpose for which the meeting is called shall be stated in the notice. If mailed, the notice of a meeting shall be deemed delivered when deposited in the United States mail addressed to the member at his address as it appears on the records of the corporation, with postage thereon prepaid.

SECTION 5. MANNER OF ACTING. The act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, except where otherwise provided by law or by these bylaws.

SECTION 6. INFORMAL ACTION BY DIRECTORS. Any action required to be taken at a meeting of the Directors of the corporation, or any other action which may be taken at a meeting of Directors, may be taken without a meeting if a consent in writing, setting forth the action so taken, shall be signed by all of the Directors entitled to vote with respect to the subject matter thereof, or such action may be taken by the Executive Committee of the Board of Directors.

SECTION 7. QUORUM. The Directors holding one-third of the votes which may be cast at any meeting shall constitute a quorum at such meeting. If a quorum is not present at any meeting of Directors, a majority of the Directors present may adjourn the meeting from time to time without further notice.

SECTION 8. COMPENSATION. Directors as such shall not receive any stated salaries for their services.

SECTION 9. VACANCIES. Any vacancy occurring in the Board of Directors or any directorship to be filled by reason of an increase in the number of

Directors, shall be filled by majority vote of all the judges of the United States District Court for the Northern District of Georgia. A Director elected to fill a vacancy shall be elected for the unexpired term of his predecessor in office.

ARTICLE V

Officers

SECTION 1. OFFICERS. The officers of the corporation shall be a president who shall serve as Chairman of the Board, a First Vice President who shall serve as President elect, one or more other vice presidents (the number thereof to be determined by the Board of Directors), a treasurer, a secretary and such other officers as may be elected in accordance with the provisions of this Article. The Board of Directors may elect or appoint such other officers as it shall deem desirable, such officers to have the authority and perform the duties prescribed from time to time by the Board of Directors. Any two or more offices may be held by the same person, except the offices of president and secretary.

SECTION 2. EXECUTIVE DIRECTOR. The Directors shall employ an Executive Director who shall have the general responsibility of carrying out the purposes and business of the corporation subject to approval and direction from the Board of Directors.

SECTION 3. ELECTION AND TERM OF OFFICE. The officers shall be elected annually by the Board of Directors at its July quarterly meeting and installed at its regular annual meeting. If the election of officers shall not be held at such meeting, such election shall be held as soon as convenient thereafter. Vacancies may be filled or new offices created and filled at any meeting of the Board of Directors. Each officer shall hold office until his successor shall have been duly elected and shall have qualified.

SECTION 4. REMOVAL. Any officer or agent elected or appointed by the Board of Directors may be removed by the Board of Directors whenever in its judgment the best interests of the corporation would be served thereby.

SECTION 5. VACANCIES. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors for the unexpired portion of the term.

SECTION 6. PRESIDENT. The president shall be the principal executive officer of the corporation and Chairman of the Board of Directors and shall in general supervise and control all of the business and affairs of the corporation as authorized

by the Board of Directors. He may sign, with the secretary or any other proper officer of the corporation authorized by the Board of Directors, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these bylaws or by statute to some other officer or, agent of the corporation; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the Board of Directors from time to time.

SECTION 7. VICE PRESIDENT. In the absence of the president or in the event of his inability or refusal to act, the vice president (or in the event there be more than one vice president, the vice presidents in the order designated, or in the absence of any designation, then in the order of their elections) shall perform the duties of the president, and when so, acting, shall have all the powers of and be subject to all the restrictions upon the president. Any vice president shall perform such other duties as from time to time may be assigned to him by the president or by the Board of Directors.

SECTION 8. TREASURER. If required by the Board of Directors, the treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Board of Directors shall determine. He shall have charge and custody of and be responsible for all funds and securities of the corporation; receive and give receipts for moneys due and payable to the corporation in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of Article VII of these bylaws; and in general perform all the duties incident to the office of treasurer and such other duties as from time to time may be assigned to him by the president or by the Board of Directors.

SECTION 9. SECRETARY. The secretary shall keep the minutes of the meetings of the Board of Directors in one or more books provided for that purpose; see that all notices are duly given in accordance with the provisions of these bylaws or as required by law; be custodian of the corporate records and of the seal of the corporation and see that the seal of the corporation is affixed to all documents, the execution of which on behalf of the corporation under its seal is duly authorized in accordance with the provisions of these bylaws; keep a register of the post office address of each member which shall be furnished to the secretary by such member; and in general perform all duties incident to the office of secretary and such other duties as from time to time may be assigned to him by the president or by the Board of Directors.

SECTION 10. ASSISTANT TREASURERS AND ASSISTANT

SECRETARY. If required by the Board of Directors, the assistant treasurers shall give bonds for the faithful discharge of their duties in such sums and with such sureties as the Board of Directors shall determine. The assistant treasurers and assistant secretaries, in general, shall perform such duties as shall be assigned to them by the treasurer or the secretary or by the president or the Board of Directors.

ARTICLE VI

Committees

SECTION 1. EXECUTIVE COMMITTEE. The officers of the corporation shall act as an Executive Committee. The Chairman of the Board of Directors shall serve as Chairman of the Executive Committee. The Executive Committee shall have and exercise the full and complete authority of the Board of Directors in the management of the corporation between meetings of the Board. A majority to the Executive Committee shall constitute a quorum.

SECTION 2. COMMITTEES OF DIRECTORS. The Chairman of the Board of Directors may designate one or more committees, each of which shall consist of two or more Directors.

SECTION 3. TERM OF OFFICE. Each member of a committee shall continue as such until the next annual meeting of the Directors of the corporation and until his successor is appointed, unless the committee shall be sooner terminated, or unless such member be removed from such committee, or unless such member shall cease to qualify as a member thereof.

SECTION 4. CHAIRMAN. One member of each committee shall be appointed chairman.

SECTION 5. VACANCIES. Vacancies in the membership of any committee may be filled by appointments made in the same manner as provided in the case of the original appointments.

SECTION 6. INFORMAL ACTION BY COMMITTEES. Any action required to be taken at a meeting of a committee or any other action which may be taken at a meeting of a committee may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all the members of the committee entitled to vote with respect to the subject matter thereof.

SECTION 7. RULES. Each committee may adopt rules for its own government not inconsistent with these bylaws or with rules adopted by the Board of Directors.

ARTICLE VII

Contracts, Checks, Deposits and Funds

SECTION 1. CONTRACTS. The Board of Directors may authorize any officer or officers, agent or agents of the corporation, in addition to the officers so authorized by these bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation and such authority may be general or confined to specific instances.

SECTION 2. CHECKS, DRAFTS, ETC. All checks, drafts or other order for the payment of money, notes or other evidences of indebtedness issued in the name of the corporation, shall be signed by such officer or officers, agent or agents of the corporation and in such manner as shall from time to time be determined by resolution of the Board of Directors. In the absence of such determination by the Board of Directors such instruments shall be signed by the president, a vice president, or the treasurer or an assistant treasurer of the corporation.

SECTION 3. DEPOSITS. All funds of the corporation shall be deposited from time to time to the credit of the corporation in such banks, trust companies or other depositories as the Board of Directors may select.

SECTION 4. GIFTS. The Board of Directors may accept on behalf of the corporation any contribution, gift, bequest or devise for the general purpose or for any special purpose of the corporation.

SECTION 5. INDEMNIFICATION OF OFFICERS AND DIRECTORS. The corporation shall indemnify the Directors and officers of the corporation and may purchase and maintain liability insurance on their behalf under the conditions of, to the extent provided in, and subject to the limitations of Sections 22-2261 and 22-717 of the Georgia Code Annotated.

ARTICLE VIII

Certificates of Membership

SECTION 1. CERTIFICATES OF MEMBERSHIP. The Board of Directors may provide for the issuance of certificates evidencing membership on the Board of Directors of the corporation which shall be in such form as may be determined by the Board. Such certificates shall be signed by the president or a vice

president and by the secretary or an assistant secretary and shall be sealed with the seal of the corporation. All certificates evidencing membership shall be consecutively numbered. The name and address of each Director and the date of issuance of the certificate shall be entered on the records of the corporation.

SECTION 2. ISSUANCE OF CERTIFICATES. When a Director has been elected to membership as a Director, a certificate of membership shall be issued in his name and delivered to him by the secretary, if the Board of Directors shall have provided for the issuance of certificates of membership under the provisions of Section 1 of this Article.

ARTICLE IX

Books and Records

The corporation shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of the Board of Directors and committees having any of the authority of the Board of Directors, and shall keep at the registered or principal office a record giving the names and addresses of the Directors entitled to vote. All books and records of the corporation may be inspected by any Director, or his agent or attorney, for any proper purpose at any reasonable time. There shall be an annual audit of the books of the corporation by a certified public accountant.

ARTICLE X

Fiscal Year

The fiscal year of the corporation shall begin on the first day of October and end on the last day of September in each year.

ARTICLE XI

Seal

The Board of Directors shall provide a corporate seal which shall be in the form of a circle and shall have inscribed thereon the name of the corporation and the words "Corporate Seal, Georgia."

ARTICLE XII

Waiver of Notice

Whenever any notice whatever is required to be given under the provisions of the Nonprofit Corporation Code of Georgia or under the provisions of the Articles of Incorporation or by the bylaws of the corporation, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated herein, shall be deemed equivalent to the giving of such notice.

ARTICLE XIII

Amendments to Bylaws

These bylaws may be altered, amended, or repealed and new bylaws may be adopted at any meeting of the Directors provided that ten (10) days' notice of such meeting specifying the substance of any such proposed changes in the bylaws has been given to all the Directors.